

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Caroline Moses	Team: Squad #13	CCRB Case #: 201908640	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/03/2019 5:30 AM, Sunday, 09/08/2019 8:30 AM	Location of Incident: § 87(2)(b) Broad Street and Tompkins Avenue	Precinct: 120	18 Mo. SOL 3/3/2021	EO SOL 10/18/2021	
Date/Time CV Reported Tue, 10/01/2019 3:05 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/01/2019 3:05 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. DTS Rudy Anzalone	5617	945472	INT CIS
3. CPT Anthony Bentivegna	00000	878931	PBSI

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Adrian Klusek	07981	956024	120 PCT
2. SGT Thomas Woods	05640	935987	INT CIS
3. DTS Steven Lopez	04354	943498	INT CIS
4. POM Christophe Urcinoli	27917	959323	120 PCT
5. POM Allen Haynes	6150	956729	120 PCT
6. POM Vincent Reres	16994	957998	120 PCT
7. POM Christophe Serio	31970	953388	120 PCT
8. POM Matthew Brucato	01232	966483	120 PCT
9. POF Fiona Oneill	06106	959000	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Rudy Anzalone	Abuse: On September 3, 2019, Detective Rudy Anzalone entered § 87(2)(b) in Staten Island.	
B.DTS Rudy Anzalone	Abuse: On September 3, 2019, Detective Rudy Anzalone searched § 87(2)(b) in Staten Island.	
C.CPT Anthony Bentivegna	Abuse: On September 3, 2019, at § 87(2)(b) in Staten Island, Captain Anthony Bentivegna refused to show the search warrant to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.DTS Rudy Anzalone	Abuse: On September 3, 2019, at § 87(2)(b) in Staten Island, Detective Rudy Anzalone refused to show the search warrant to § 87(2)(b)	
E.CPT Anthony Bentivegna	Abuse: On September 3, 2019, at § 87(2)(b) in Staten Island, Captain Anthony Bentivegna refused to show the search warrant to § 87(2)(b)	
F.DTS Rudy Anzalone	Abuse: On September 3, 2019, at § 87(2)(b) in Staten Island, Detective Rudy Anzalone refused to show the search warrant to § 87(2)(b)	
G. Officers	Abuse: On September 3, 2020, at § 87(2)(b) in Staten Island, officers refused to provide their names to § 87(2)(b)	
H. Officers	Abuse: On September 3, 2020, at § 87(2)(b) in Staten Island, officers refused to provide their shield numbers to § 87(2)(b)	
I.CPT Anthony Bentivegna	Discourtesy: On September 8, 2019, at Broad Street and Tompkins Avenue in Staten Island, Captain Anthony Bentivegna spoke discourteously to § 87(2)(b)	

Case Summary

On October 1, 2019, § 87(2)(b) called the CCRB and filed this complaint on behalf of herself, her boyfriend, § 87(2)(b) her § 87(2)(b) -old daughter, § 87(2)(b) her § 87(2)(b) -old son, § 87(2)(b) her § 87(2)(b) -old son, § 87(2)(b) her § 87(2)(b) -old son, § 87(2)(b) and her § 87(2)(b) -old granddaughter, § 87(2)(b).

On September 3, 2019, at around 5:15 a.m., officers, including Detective Rudy Anzalone and Detective Steven Lopez of the Central Intelligence Section, Captain Anthony Bentivegna of Patrol Borough Staten Island, and Emergency Services Unit officers, entered § 87(2)(b) in Staten Island. At the time, § 87(2)(b)'s brother, § 87(2)(b) was also in the apartment. The officers searched the apartment, pointed their guns at § 87(2)(b) and ordered the occupants not to “fucking move” (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) asked to see the search warrant, but it was not shown to them (**Allegations C and D: Abuse of Authority**, § 87(2)(g); **Allegations E and F: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) requested the officers’ names and shield numbers, but the officers did not provide the requested information (**Allegations G and H: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were arrested and transported from the scene.

§ 87(2)(b) was ultimately not charged with a crime and was released on § 87(2)(b) (**Board Review 44**). On § 87(2)(b), § 87(2)(b) pled guilty to Criminal Possession of a Controlled Substance in the Third Degree and was sentenced to two years imprisonment (**Board Review 49**).

On September 8, 2019, § 87(2)(b) was walking down Broad Street in Staten Island towards the bus stop at the corner of Broad Street and Tompkins Avenue, when an unmarked police van drove by and slowed down alongside her. Recognizing the officers from the earlier interaction, § 87(2)(b) told them that they arrested the wrong person. Captain Bentivegna said through the open window, “Shut up, you’re lucky I haven’t locked you back up.” (**Allegation I: Discourtesy**, § 87(2)(g)).

Body-worn camera footage captured the first part of this incident. The footage is in IAs #106-115 and IAs #131-132 (**Board Review 01-12**) and is summarized in IAs #123, #125-130, #134-137, and #141 (**Board Review 13-24**). There is no video evidence of the second part of this incident as Captain Anthony Bentivegna was not equipped with a body-worn camera and the request for footage was returned negative.

Findings and Recommendations

Allegation (A): Abuse of Authority: On September 3, 2019, Detective Rudy Anzalone entered § 87(2)(b) in Staten Island.

Allegation (B): Abuse of Authority: On September 3, 2019, Detective Rudy Anzalone searched § 87(2)(b) in Staten Island.

§ 87(2)(b) said she was in her bedroom when she heard her son, § 87(2)(b) yell, “Oh shit, what the fuck [is] going on?” (**Board Review 25**). § 87(2)(b) ran into the living room and saw her boyfriend’s brother, § 87(2)(b) run from the living room to the bedroom § 87(2)(b) shared with § 87(2)(b) minor sons and throw crack cocaine out the window. § 87(2)(b) approached the door to open it, but as soon as he began reaching for it, officers forced it open with a battering ram. The officers entered and said they were looking for narcotics. The officers searched § 87(2)(b) bedroom and her sons’ bedroom. They recovered marijuana, a scale with marijuana residue on it, and crack cocaine.

§ 87(2)(b) said he was asleep in the living room when he was awoken by a drilling sound (**Board**

Review 27). As he went to answer the door, it swung open and seven officers in ESU uniforms entered the apartment. They pointed their guns at § 87(2)(b) and said, “Get the fuck down, nobody fucking move!” § 87(2)(b) and § 87(2)(b) were handcuffed and brought to the couch as the officers secured the other civilians in the apartment and brought them into the living room.

§ 87(2)(b) said he was awoken by the sound of the officers entering the apartment and shortly thereafter, two officers entered § 87(2)(b) bedroom, where he had been sleeping, and brought § 87(2)(b) into the living room, where § 87(2)(b) and § 87(2)(b) were already present (**Board Review 26**).

§ 87(2)(b) statement was generally consistent with the other civilians’ statements (**Board Review 28**). She said she and § 87(2)(b) were escorted from her room to the living room.

Det. Anzalone said he went to § 87(2)(b) in Staten Island to execute a no-knock search warrant for that address (**Board Review 33**). He obtained the search warrant from a judge, and it authorized the search of the entire apartment for narcotics. Det. Anzalone searched all three bedrooms of the apartment because the search warrant authorized him to do so.

Cpt. Bentivegna said he held a tactical meeting with the Emergency Services Unit and the 120th Precinct Field Intelligence Unit prior to the execution of the search warrant to develop a tactical plan for its execution (**Board Review 34**).

The investigation determined that no officer possessed a physical copy of the search warrant at the time the search warrant was executed (see the analysis of Allegations C-F for details).

Search warrant § 87(2)(b) (**Board Review 29**), requested by Det. Anzalone and issued by Supreme Court Judge § 87(2)(b) on § 87(2)(b), authorized a no-knock entry of § 87(2)(b) in Staten Island at any time of the day or night without prior notice within 10 days of issuance, for officers to enter and search the location for crack cocaine, marijuana, narcotics paraphernalia, records pertaining to the possession and sale of crack cocaine, currency and other evidence of proceeds from drug trafficking, electronic communication equipment, and evidence of ownership and use of the location. Det. Anzalone obtained a second search warrant from Judge § 87(2)(b) at the same time he obtained the first, which authorized officers to search § 87(2)(b) person for the same things noted above (**within Board Review 29**).

Article 690.50 of the Criminal Procedure Law (**Board Review 30**) permits officers who have obtained a valid judge-issued search warrant to enter and search a specific location. In People v. Williams (275 A.D.2d 753), the court held that the fact that officers may not have had physical possession of the search warrant at the time of execution and allegedly refused to show the warrant to the defendant did not require the suppression of the contraband seized from the apartment as there was no question that the search warrant was signed by the issuing Magistrate six days prior to its execution, and that the executing officers knew of its existence and contents. Thus, contrary to the defendant's contention, the search of the premises was not tantamount to a warrantless search. The entry and search were authorized by a Judge prior to the occurrence and, therefore, both Federal and State constitutional requirements were satisfied (**Board Review 55**).

§ 87(2)(g)

§ 87(2)(g)

Allegation (C): Abuse of Authority: On September 3, 2019, at § 87(2)(b) in Staten Island, Captain Anthony Bentivegna refused to show § 87(2)(b) the search warrant.

Allegation (D): Abuse of Authority: On September 3, 2019, at § 87(2)(b) in Staten Island, Detective Rudy Anzalone refused to show § 87(2)(b) the search warrant.

Allegation (E): Abuse of Authority: On September 3, 2019, at § 87(2)(b) in Staten Island, Captain Anthony Bentivegna refused to show § 87(2)(b) the search warrant.

Allegation (F): Abuse of Authority: On September 3, 2019, at § 87(2)(b) in Staten Island, Detective Rudy Anzalone refused to show § 87(2)(b) the search warrant.

§ 87(2)(b) said she and § 87(2)(b) asked the officers assembled in the living room multiple times to see the search warrant as they were being handcuffed, and that multiple officers told them that it was downstairs. Neither § 87(2)(b) nor § 87(2)(b) were shown the search warrant during this incident, nor was a copy left at the apartment when § 87(2)(b) returned from being in police custody (**Board Review 31**). § 87(2)(b)'s statement was generally consistent with § 87(2)(b) statement with the addition that he also asked to see the warrant in the bedroom he was in prior to being escorted into the living room, and that in response, he was told it was on its way.

§ 87(2)(b) said § 87(2)(b) and § 87(2)(b) both asked to see the search warrant and were told that the supervisor who had it was on his way. Police Officer Allen Haynes of the 120th Precinct, identified via investigation, eventually arrived at the apartment and showed § 87(2)(b) the search warrant, but PO Haynes arrived after § 87(2)(b) and § 87(2)(b) had already been removed from the apartment and transported to the 120th Precinct stationhouse. He did not leave a copy of the search warrant in the apartment.

Det. Lopez's body-worn camera footage, at the 01:30 minute-mark of the media player timestamp (visible at the bottom of the screen), captures § 87(2)(b) asking to see the search warrant (**Board Review 02**). Det. Anzalone, Cpt. Bentivegna, and several other officers are in the room with § 87(2)(b) and all of the adults in the room but § 87(2)(b) and § 87(2)(b) are handcuffed. Det. Lopez responds, "Hold on." § 87(2)(b) is not captured asking to see the search warrant, though there are times throughout the footage where he is not in the frame. This footage captures the search of the apartment but does not capture § 87(2)(b) and § 87(2)(b) once they are removed from the apartment.

PO Haynes' BWC footage captures, at the 01:02 minute-mark of the media player timestamp (visible at the bottom of the screen), him telling another officer that Det. Anzalone asked him to get the search warrant from the car (**Board Review 05**). In Part 2 of PO Haynes' BWC footage, at the 00:30 minute-mark of the media player timestamp (visible at the bottom of the screen), PO Haynes returns and reads the search warrant aloud to § 87(2)(b) and § 87(2)(b) (**Board Review 09**). He does not hand the warrant to either of them and is not captured ever setting it down anywhere. § 87(2)(b) and § 87(2)(b) are still handcuffed and Det. Anzalone and Det. Lopez are still searching the apartment. Most of the officers have already left the apartment.

The BWC videos of Police Officer Fiona O'Neill and Police Officer Matthew Brucato, both of the 120th Precinct, begin with § 87(2)(b) being searched inside the apartment and continue through her being lodged in a holding cell at the 120th Precinct stationhouse (**Board Review 06 and 07**). The BWC footage of Police Officer Christopher Urcinoli of the 120th Precinct's begins with § 87(2)(b)

§ 87(2)(b) being removed from the apartment and continues through him being lodged in a holding cell (**Board Review 08**). At no point in any of the BWC videos is a search warrant presented to § 87(2)(b) or to § 87(2)(b).

Det. Anzalone acknowledged obtaining the search warrant, and said he brought a copy with him to the incident location, but that he left it in his vehicle by mistake. Det. Anzalone believed Cpt. Bentivegna, identified via investigation, also had a copy of the search warrant with him during this incident. Det. Anzalone believed his copy of the search warrant was left in the apartment at the conclusion of the execution (after it was retrieved from his car), though he was not certain of this. Det. Anzalone initially did not recall whether anyone asked to see the search warrant in his presence, but upon reviewing his BWC footage, acknowledged that it depicts § 87(2)(b) asking to see the warrant in his presence. He said he did not show it to her because she was upset and he was concerned she might try to grab or tear it, because civilians sometimes do this during search warrant executions.

Captain Bentivegna said he left his copy of the search warrant inside his vehicle during the search warrant execution. He did not know who else in the apartment had a copy of the search warrant. Cpt. Bentivegna left the location after approximately 10 to 15 minutes. He did not independently recall § 87(2)(b) or § 87(2)(b) requesting to see the warrant, but he acknowledged being present at the point in the BWC footage when § 87(2)(b) is captured asking to see it. He never showed a copy of the search warrant to § 87(2)(b) or § 87(2)(b) and he was not sure if § 87(2)(b) or § 87(2)(b) were ultimately shown the search warrant by another officer.

Det. Lopez acknowledged that his BWC footage captures § 87(2)(b) asking to see a copy of the search warrant, though he did not independently recall § 87(2)(b) or § 87(2)(b) asking to see it (**Board Review 32**). He said he was not required to have a copy of the search warrant with him as he did not obtain it. He did not know if one was ultimately shown to § 87(2)(b) or to § 87(2)(b). He speculated they may have been shown a copy of the search warrant later at the 120th Precinct stationhouse because that is when he typically chooses to show search warrants to civilians when he is the officer who obtained it.

PO Haynes did not independently recall § 87(2)(b) asking to see the search warrant, but upon reviewing his BWC footage, acknowledged that it captures her asking to see the search warrant in his presence, and said Det. Anzalone asked him to retrieve it in response to § 87(2)(b) request (**Board Review 50**). PO Haynes acknowledged that by the time he returned to the apartment with the search warrant, § 87(2)(b) had already been transported from the scene. He did not leave the search warrant inside the apartment because he thought it might have been the original document, in which case, it would have needed to be returned to the issuing judge after the search warrant execution. He thought it might be the original search warrant because he retrieved it from a file folder with several other documents. PO Haynes did not interact with § 87(2)(b) after leaving the apartment to retrieve the search warrant. PO Haynes believed he brought the search warrant back out to the car he retrieved it from but was unsure of this.

NYPD Patrol Guide, Procedure 221-17 states that officers are required to show the search warrant to any occupant who requests it, “safety permitting” (**Board Review 44**).

§ 87(2)(g)
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Allegation (G): Abuse of Authority: On September 3, 2019, at § 87(2)(b) in Staten Island, officers refused to provide their names to § 87(2)(b)

Allegation (H): Abuse of Authority: On September 3, 2019, at § 87(2)(b) in Staten Island, officers refused to provide their shield numbers to § 87(2)(b)

§ 87(2)(b) said that while officers were searching his and § 87(2)(b) bedrooms, he asked the group of officers who were searching those rooms to provide their names and shield numbers, and that they briefly pointed to their shields before turning away from § 87(2)(b). § 87(2)(b) did not read their nameplates because the officers turned away too quickly. § 87(2)(b) did not specify how long the officers pointed to their shields or how far away he was from the officers when he asked. None of the other civilians mentioned § 87(2)(b) asking to see any officers' name or shield number.

A combination of Det. Lopez's BWC footage (from the 06:10 minute mark to the 28:41 minute mark of the media player timestamp, visible at the bottom of the screen), and the BWC footage of Police Officer Adrian Klusek of the 120th Precinct (from the beginning to the 36:02 minute mark of the media player timestamp, visible at the bottom of the screen) capture the entirety of the search of the apartment and neither video captures § 87(2)(b) asking these or any other officers for their name or shield number (**Board Review 02 and 03**).

§ 87(2)(g)

Allegation (I): Abuse of Authority: On September 8, 2019, at the intersection of Broad Street and Tompkins Avenue in Staten Island, Captain Anthony Bentivegna spoke discourteously to § 87(2)(b)

§ 87(2)(b) said that on September 8, 2019, at 8:30 a.m., she was walking on Broad Street toward Tompkins Avenue in Staten Island when a black unmarked police van with tinted windows slowed down and pulled alongside her (**Board Review 35 and 36**). Cpt. Bentivegna, whom § 87(2)(b) recognized from the search warrant execution and who was identified via investigation, was seated in the passenger seat, and looked at § 87(2)(b). § 87(2)(b) said, "What are you looking at me for? You let the wrong people go," referring to her belief that the cocaine recovered during the search warrant execution belonged to § 87(2)(b). § 87(2)(b) not § 87(2)(b). Cpt. Bentivegna said, "Shut up,

you're lucky I haven't locked you back up." § 87(2)(b) told Cpt. Bentivegna that he had nothing on her to lock her back up, and she continued walking toward her bus stop. The police van drove off.

The NYPD Legal Department did not locate any BWC footage of this incident (**Board Review 37**), and due to the complaint being filed three months after the incident, no TARU or video surveillance footage of this interaction could be recovered.

Cpt. Bentivegna said he was not working on September 8, 2019. He denied being at Broad Street and Tompkins Avenue that day, he denied encountering § 87(2)(b) and he denied threatening to arrest her. Cpt. Bentivegna said he does not maintain an activity log, but the Patrol Borough Staten Island roll call for captains and above was obtained from the NYPD and confirmed that Cpt. Bentivegna was not working on September 8, 2019 (**Board Review 38**).

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b)
[REDACTED]
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 42**).
- Det. Anzalone has been a member of service for 12 years and has been named as a subject in 15 cases comprised of 39 allegations, one of which was substantiated. § 87(2)(g)
[REDACTED]
 - #201702888 involved a substantiated stop allegation. The Board recommended Command Discipline B, and the NYPD imposed Formalized Training.
- Cpt. Bentivegna has been a member of service for 37 years, and this is the first CCRB complaint in which he has been named a subject.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of November 9, 2020, the New York City Office of the Comptroller had no record of a Notice of Claim being filed regarding this incident (**Board Review 43**).
- According to the Office of Court Administration, § 87(2)(b) has no criminal convictions in New York City (**Board Review 45, 52**).
- § 87(2)(b)
[REDACTED]
- § 87(2)(b)
[REDACTED]

§ 87(2)(b)

- According to the Office of Court Administration, § 87(2)(b) has no criminal convictions in New York City (**Board Review 46, 54**).

Squad No.: 13

Investigator: Inv. Caroline Moses Inv. Caroline Moses 03/17/2021
Signature Print Title & Name Date

Squad Leader: IM Laura Kastner IM Laura Kastner 03/17/2021
Signature Print Title & Name Date